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10/599,287	09/25/2006	Riccardo Abate	72361	6513

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EXAMINER

WEINSTEIN, LEONARD J

ART UNIT	PAPER NUMBER
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3746

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11/09/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/599,287	Applicant(s) ABATE ET AL.	
	Examiner LEONARD J. WEINSTEIN	Art Unit 3746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 August 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-12 is/are rejected.
- 7) ☒ Claim(s) 1,11 and 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response to the amendment of August 16, 2010. In making the below rejections and/or objections the examiner has considered and addressed each of the applicant's arguments.
2. The examiner acknowledges the amendments to claims 1, 2, and 4-10. The examiner notes that claims 11 and 12 have been introduced and claim 3 has been canceled.

Claim Objections

3. Claims 1, 5, and 7 are objected to because of the following informalities:
 - a. **Claim 1** – the recitation of:
 - “said head having an air inlet duct comprising a filter and an air outlet duct”should be amended to recite:
 - --- said head having an air outlet duct and an air inlet duct comprising a filter ~~and an air outlet duct~~ ---so the air inlet duct is not construed as being comprised of the air outlet duct.
 - b. **Claim 5** – the recitation of:
 - “wherein a protrusion is disposed inside said shell”should be amended to recite:
 - --- wherein a protrusion is disposed inside said bottom shell ---
 - c. **Claim 7** – the recitation of:

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- “said filter through a slot provided in said body”

should be amended to recite:

- --- said filter through a filter slot provided in said body ---

in order to avoid confusing the slot of claim 7 with the slots introduced in claim 1.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 8, 9, and 10 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a compressor including a means for receiving and holding an air inlet duct with a filter being provided by a first recess of a top shell joined with a first recess of a second shell when a body is closed to form a lateral lodging and a means for receiving and holding an air outlet duct provided by a second recess on a top surface of a top shell, does not reasonably provide enablement for a compressor with the same features as discussed above and additionally:

- a. With respect to claims 8 and 10: parallel air inlet and outlet ducts; and
- b. With respect to claim 9: a tool holder.

The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims. Claims 8-10 are directed toward the embodiment of figure 9

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which include parallel inlet and outlet ducts and a tool holder. The limitations of claim 1, which claims 8-10 depend from, are directed to the embodiment of figures 1-8 in which an outlet duct is provided in a recess in a top surface of a top shell. In the embodiment of figure 9, air inlet 22 and outlet 23 ducts are parallel to each other and not received in a side seating formed by a first recess of a top shell and a first recess in a bottom shell. The embodiment of figure 9 does not provide an air outlet duct in a top surface of a top shell. There is no single embodiment that teaches an inlet duct received in a lateral lodging formed when top and bottom shells are brought together and an outlet duct that is received in a recess in the top surface of a top shell in combination with either parallel inlet and outlet ducts or a tool holder.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 1, and by dependency claims 2 and 6-10, claim 4, claim 5, claim 11, and claim 12, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Both claims 1 and 4 introduce elements related a previously recited "means for" limitation but do not specific claim the elements as defining the means.

a. With respect to **claim 1** – the limitations directed toward a second recess receiving an air outlet duct are not linked with the previously claimed "means for receiving and holding . . . the air outlet duct" in a similar manner as the elements

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recited as comprising a means for holding and receiving the air inlet tube and the socket, switch, and plate. The limitations including:

- "said top shell comprising a second recess on a top surface thereof, said second recess receiving said air outlet duct"

will be considered to be:

- --- ~~said top shell~~ said means for receiving and holding said outlet duct comprising a second recess on a top surface thereof of said top shell, said second recess receiving said air outlet duct ---

for the office action on the merits.

b. With respect to **claims 4** –

i. The limitations directed toward a first seal and a second seal are not linked with the previously claimed "means for receiving and holding . . . the air inlet duct." The limitations of claim 4 should refer back to the means of claim 1 because the first seal is disposed between the inlet tube and the first recesses which provide the means for holding and receiving the inlet tube. The first seal is part of the assembly that holds and receives the air inlet tube.

ii. In view of the limitations of claim 1 as considered in section 8.a. above, the limitations directed toward a second seal, are not but should be linked with the previously claimed "means for receiving and holding . . . the air outlet duct" because the second seal is disposed between the outlet tube and the second recess which provides part of the means for holding

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and receiving the outlet tube. The seal is part of the assembly that holds and receives the air outlet tube.

iii. The limitations including:

– "wherein a first seal is arranged . . . and a second seal is arranged"

will be considered to be:

– --- wherein said means for receiving and holding the air inlet tube further comprises a first seal is arranged. . . and said means for receiving and holding the air outlet tube further comprises a second seal is arranged . . . ---

for the office action on the merits.

c. With respect to **claims 11** –

i. The limitations directed toward a side seating, a first seal, and a second seal are not linked with the previously claimed "means for receiving and holding . . . the air inlet duct, the air outlet duct." The limitations directed toward the side seating and the seals should refer back to the means because as recited they constitute elements separate from the previously claimed means. The result of the limitations is that a means for holding and receiving the air inlet duct and the air outlet duct would comprise other elements than the first recesses and first seal and second recess and second seal respectively. This not commensurate in scope with the invention as disclosed because there are no other elements that receive and hold the ducts.

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ii. The limitations including:

- "wherein said air inlet duct with said filter is lodged in a side seating formed by a first recess in said top shell and a first recess in said bottom shell, wherein a first seal is arranged between said air inlet duct and said first recess in said top shell and said first recess in said bottom shell, and a second seal is arranged between said air outlet duct and a hole defined by a second recess in a top portion of the top shell, wherein said air outlet duct is arranged in said hole in said top shell"

will be considered to be:

- --- wherein said means for receiving and holding said air inlet duct with said filter ~~is lodged in~~ is provided by a side seating in which the air inlet duct with filter is lodge, said side seating is formed by a first recess in said top shell and a first recess in said bottom shell, wherein said means for receiving and holding said air inlet duct with said filter further comprises a first seal ~~is~~ arranged between said air inlet duct and said first recess in said top shell and said first recess in said bottom shell, wherein said means for receiving and holding an air outlet tube is provide by ~~and~~ a second seal ~~is~~ arranged between said air outlet duct and a hole defined by a second recess in a top portion of the top shell, wherein said air outlet duct is arranged in said hole in said top shell ---

in the office action on the merits.

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8. Claim 5 recites the limitation "said shell" in line 3 of the claim. There is insufficient antecedent basis for this limitation in the claim. As best understood by the examiner the limitation will be considered to be --- said bottom shell --- in the office action on the merits which follows below.

9. Claim 12 recites the limitation "said shell" in line 19 of the claim. There is insufficient antecedent basis for this limitation in the claim. As best understood by the examiner the limitation will be considered to be --- said bottom shell --- in the office action on the merits which follows below.

Allowable Subject Matter

10. Claims 1, 11, and 12 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

a. The following is a statement of reasons for the indication of allowable subject matter with respect to claim 1:

i. The prior art does not teach the limitations for an operating to generate a flow under pressure including a pump and a body that comprises suspension elements, and top and bottom shells that provide means for receiving and holding an air inlet duct with a filter, an air outlet duct, and a plate with a fuse, a socket, and a switch following the overlapping of one of said top shell edge and said bottom shell edge with the other of the top shell edge and said bottom shell edge upon an automated assembly wherein:

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(1) The means for receiving and holding said air inlet duct with said filter is provided by a first recess of the top shell joined with a first recess of the second shell which form a lateral lodging to receive the air inlet duct and the air filter when the body is closed; and

(2) The means for receiving and holding the socket, the switch, and the plate comprises a slot of the top shell and a slot of the bottom shell which form a lateral opening that receives and holds said socket, said switch, and said plate when the body is closed, **are combined with:**

(3) A means for receiving and holding said outlet duct comprising a second recess on a top surface of said top shell, said second recess receiving said air outlet duct.

ii. The inventive feature of the instant invention is constituted by the specific arrangement that includes a pump body formed by top and bottom shells, the bottom including suspension elements, that each have slots and recesses that constructively receive a socket, fuse, and plate and an inlet duct when the edges of the shells are joined together, in combination with an air outlet duct received and held in a single recess in the top shell's top surface. This specific and detailed arrangement is not taught by the prior art of record.

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The prior art of Attolini US 6,318,360 ("Attolini '360") teaches a pump body formed from two shells each with recesses that constructively hold and receive an air inlet and outlet duct. Attolini does not teach slots for a socket, switch, and plate, or an outlet duct being held and received by a recess in the top surface of the top shell.

The prior art of Hsiao US 7,140,845 ("Hsiao '845") teaches a portable air compressor that includes a body formed by two shells joined at their respective edges along a vertical axis. Each shell is comprised of a recess that receives a switch, a slot that receives a plate, and a recess that receives an outlet duct. The arrangement of the outlet duct of Hsiao '845 is similar to the arrangement for the inlet and outlet duct of Attolini but Hsiao does not teach a single recess in the top surface of either shell that holds and receives an inlet or and outlet duct. Hsiao '845 provides no details regarding a pump inlet or inlet duct.

The prior art of Leonhard US 2003/0003003 ("Leonhard '003") teaches a pump housing that includes two shell components for a pump that includes inlet and outlet ports arranged at a right angle to one another. The ports communicate with holes in the side of one shell piece that forms the housing, but do not extend through the holes. The holes are also not formed by a recess in each shell piece when the pieces are joined together.

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The prior art of Kille US D316,098 ("Kille '098"), Armstrong D 316,865 ("Armstrong '865"), and Christiansen et al. US D454,884 ("Christiansen '884"), teach designs for pump housings that include a duct extending through the top surface of a housing component. The references are design patents and it is therefore unclear which ducts are inlet or outlet ducts. The references represent various arrangements for the pump housing but none have a combination where one duct is held by recesses formed in separate housing parts, and one duct that extends through a hole or recess that is only provided in one of the housing parts. Armstrong '865 and Christiansen '884 both teach ducts that are all held in place by recess formed at the edges of the housing parts when the parts are joined.

The prior art of Attolini US D348,927 ("Attolini '927") teaches an inlet and outlet duct that extend through a single recess in the top surface of a shell but a design for a housing for a pump with parallel inlet and outlet ducts. There is no suggestion that either duct could be orientated in a different position relative to the other duct which would allow for one duct to be held by recesses joining together at the edges of top and bottom shells and the other duct to be held by a second recess entirely provided in only one of the shell pieces. The ducts of Attolini '927 are parallel ducts, a change providing one duct at a right angle to the other duct would significantly change the pump head. Attolini '927 is a design

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patent that does not (and cannot) specify the type or capabilities of the pump that will be provided in the housing.

The prior art of record is close to that of the claimed invention. Each of the references cited above teaches some part of the limitations but the specific design embodied by the limitations is not taught by the prior art. Changing the orientation of the outlet duct of base reference of Attolini '360 would amount to an arbitrary modification not taught or motivated by the prior art. Further it would require either a different pump or a significant modification to the pump head to provide the outlet duct so that it would extend through a single recess provided in a top shell.

b. The following is a statement of reasons for the indication of allowable subject matter with respect to claim 11:

i. The prior art does not teach the limitations for an operating to generate a flow under pressure including a pump and a body that comprises suspension elements, and top and bottom shells that provide means for receiving and holding an air inlet duct with a filter, an air outlet duct, and a plate with a fuse, a socket, and a switch following the overlapping of one of said top shell edge and said bottom shell edge with the other of the top shell edge and said bottom shell edge upon an automated assembly in a combination wherein means for holding and receiving the air inlet duct and outlet are respectively provided by:

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(1) The air inlet duct with said filter being lodged in a side seating formed by a first recess in said top shell and a first recess in said bottom shell, wherein a first seal is arranged between said air inlet duct and said first recess in said top shell and said first recess in said bottom shell; and

(2) The air outlet duct being arranged in a hole defined by second recess in the top portion of the top shell.

ii. The limitations of claim 11 are similar to the limitations of claim 1 in that both require an inlet duct to be held and received by recesses in top and bottom shells and an outlet duct to be held and received in a second recess in the top of the top shell. As discussed above in section 9.a.2 the prior art of record is close to that of the claimed invention but the specific design embodied by the limitations is not taught by the prior art. Changing the orientation of the outlet duct of base reference of Attolini '360 would amount to an arbitrary modification not taught or motivated by the prior art.

c. The following is an examiner's statement of reasons for allowance with respect to claim 12:

i. The prior art does not teach the limitations for an operating to generate a flow under pressure including a pump and a body that comprises suspension elements, and top and bottom shells that provide means for receiving and holding an air inlet duct with a filter, an air outlet duct, and a plate with a fuse, a socket, and a switch following the

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overlapping of one of said top shell edge and said bottom shell edge with the other of the top shell edge and said bottom shell edge upon an automated assembly in combination with:

(1) A bottom portion of the bottom shell equipped with a plurality of feet, and

(2) A protrusion disposed inside the shell on an axis with one of said feet, supports the head of the pump group by extending to rest against a bottom part of the head, is aligned with and faces the air outlet duct, a damper element is arranged between the bottom part of the head and the protrusion.

ii. The references of Attolini '360, Hsiao '845, Leonhard '003, Christiansen '884, Armstrong '865, Kille '098, and Attolini '927 do not explicitly teach suspension elements within a shell of the housing for a pump. It is well known in the art to mount a pump and/or motor within the housing surrounding it but none of the references discuss this feature. Further none of the reference show, teach, or suggest a support that is aligned with and faces an outlet duct and has a damper separating it from the head that it supports from the bottom of the head.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **LEONARD J. WEINSTEIN** whose telephone number is (571)272-9961. The examiner can normally be reached on Monday - Thursday 7:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Devon Kramer can be reached on (571) 272-7118. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Devon C Kramer/
Supervisory Patent Examiner, Art
Unit 3746

/Leonard J Weinstein/
Examiner, Art Unit 3746